

Panaji, 5th March, 1987 (Phalgun 14, 1908)

SERIES I No. 49

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Notification

1/19(1)/76-PER.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, read with the Government of India, Ministry of External Affairs' Notification No. F.7(11)/62-Goa dated 25-7-1963 and in supersession of the existing recruitment rules for the posts, the Lieutenant Governor of Goa, Daman and Diu hereby makes the following rules relating to recruitment to the Group 'C', Non-Ministerial, Non-Gazetted posts in the River Navigation Department under Government of Goa, Daman and Diu, namely:

1. Short title, application and commencement. —

(1) These rules may be called the Government of Goa, Daman and Diu, River Navigation Department, Group 'C', Non-Ministerial, Non-Gazetted posts Recruitment Rules, 1987.

(2) *Application.* — These rules shall apply to the posts specified in Column 1 of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of publication in the Official Gazette.

2. Number, classification and scales of pay. —

The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule:

Provided that the Government may vary the number of posts in Column 2 of the said Schedule from time to time subject to exigencies of work.

3. *Method of recruitment, age limit and other qualifications.* — The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the said Schedule.

4. *Disqualification.* — No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax.* — Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

6. *Saving* — Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in that regard.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).

Panaji, 9th February, 1987.

Sub: - Recruitment Rules - River Navigation Department, Group 'C' posts

SCHEDULE

730

Name of the post	No. of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and Educational Qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a D. P. C. exists, what is its composition	Circumstances in which Union Public Service Commission is to be consulted in making recruitment
1	2	3	4	5	6	7	8	9	10	11	12	13
1. Job Recorder-cum-Evaluator	2 (1987) subject to variation dependent on workload	Group 'C' (non-Ministerial Non-Gazetted)	Rs. 1400-40-1800-EB-50-2300	Selection	Not exceeding 30 years. (Relaxable for Government servants upto the age of 35 years in accordance with the instructions or orders issued by the Central Government).	<p><i>Essential:</i></p> <p>Degree in Commerce from a recognised University.</p> <p><i>Desirable:</i></p> <p>Knowledge of Konkani and/or Marathi/Gujarathi.</p>	N. A.	Two years	By promotion failing which by direct recruitment.	<p><i>Promotion:</i></p> <p>UDC/Store Keeper with 5 years experience in the preparation of compilation of datas in the statistical form as required for job recording in a medium size ship building Yard.</p>	Group 'C'	N. A.
2. Senior Store Keeper	—do—	—do—	—do—	—do—	—do—	<p><i>Essential:</i></p> <p>Degree in Science from a recognised University with minimum 1 year experience in material handling in an Engineering Store.</p> <p><i>Desirable:</i></p> <p>Knowledge of Konkani and/or Marathi/Gujarathi.</p>	—do—	—do—	—do—	<p><i>Promotion:</i></p> <p>Store Keeper/UDC with 5 years service in maintenance of Store or procurement of material/cardex system and maintenance of different registers/Schedule as required under Store Rule.</p>	—do—	—do—

Law Department
Legal Affairs Branch

Notification

LD/1/86-L.A.B./753

The Coal Mines Labour Welfare Fund (Repeal) Act, 1986 (No. 27 of 1986), the Wild Life (Protection) Amendment Act, 1986 (No. 28 of 1986) and the Environment (Protection) Act, 1986 (No. 29 of 1986) which are passed by Parliament and assented to by the President on 23rd May, 1986 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 26th May, 1986, are hereby republished for general information.

P. V. Kadnekar, Under Secretary (Drafting) to the Government of Goa, Daman and Diu.

Panaji, 22nd August, 1986.

The Coal Mines Labour Welfare Fund (Repeal) Act, 1986

AN

ACT

to repeal the Coal Mines Labour Welfare Fund Act, 1947 and to provide for certain matters incidental thereto.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.* — (1) This Act may be called the Coal Mines Labour Welfare Fund (Repeal) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.* — In this Act, unless the context otherwise requires,—

(a) "the Act" means the Coal Mines Labour Welfare Fund Act, 1947; 32 of 1947.

(b) "appointed day" means the date on which this Act comes into force;

(c) "Housing Board" means the Coal Mines Labour Housing Board constituted under section 6 of the Act.

3. *Repeal of Act 32 of 1947 and dissolution of Housing Board.* — On the appointed day, the Coal Mines Labour Welfare Fund Act, 1947 shall stand repealed, and the Coal Mines Labour Housing Board shall stand dissolved.

4. *Consequential provisions.* — On the dissolution of the Housing Board,—

(a) all rights and privileges of the Housing Board shall become the rights and privileges, respectively, of the Central Government;

(b) all properties, movable and immovable, including cash balances, reserve funds, investments and moneys lying to the credit of the Housing Board and all rights and interests in, or arising out of, such properties as were immediately before the appointed day, in the ownership, possession, power or control of the Housing

Board, and all books of account, registers and records and all other documents of whatever nature relating thereto, shall vest in the Central Government;

(c) all borrowings, liabilities and obligations of the Housing Board of whatever kind and subsisting immediately before the appointed day, shall be deemed on and from such day to be the borrowings, liabilities and obligations, as the case may be, of the Central Government;

(d) all contracts entered into, and all matters and things engaged to be done by, with or for, the Housing Board and subsisting immediately before the appointed day shall be deemed on and from such day to have been entered into or engaged to be done by, with or for, the Central Government;

(e) all licences and permits granted to the Housing Board and in force immediately before the appointed day shall be deemed on and from such day to have been granted to the Central Government and shall have effect accordingly.

5. *Power of Central Government to direct vesting of rights in a Government company.* — Notwithstanding anything contained in section 4, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in writing, that the right, title and interest of the Housing Board in relation to any property shall, instead of continuing to vest in it, vest in the Government company (hereinafter referred to as the Government company) either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the direction, and on such vesting, the liability or obligation, as the case may be, of the Housing Board, in relation to such property shall, instead of continuing to be the liability or obligation of the Central Government, become the liability or obligation, as the case may be, of the Government company

6. *Continuation of suits, etc., against Central Government.* — (1) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the Housing Board is pending by or against such Board, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the dissolution of the Housing Board; but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the Government company, as the case may be.

(2) Where, before the appointed day, any cause of action for any suit or proceeding or any right to appeal arose in favour of, or against the Housing Board, and the institution of any suit or proceeding on such cause of action or the filing of such appeal was not barred before the appointed day, such suit or proceeding may be instituted or appeal may be filed by or against the Central Government or the Government company, as the case may be.

7. *Moneys, etc., of the Fund to be credited to the Consolidated Fund of India.* — On the appointed day, all moneys and cash balances lying in the credit of the housing account and the general welfare

account of the Coal Mines Labour Housing and General Welfare Fund constituted under section 4 of the Act, shall become part of, and be credited to, the Consolidated Fund of India.

8. *Collection and payment of arrears of duty.*—Notwithstanding the repeal of the Act, the proceeds of duty levied before the appointed day under section 3 of the Act,—

- (i) if collected by the collecting agencies but not paid into the Reserve Bank of India; and
- (ii) if not collected by the collecting agencies, shall be paid or, as the case may be, collected and paid, into the Reserve Bank of India for being credited to the Consolidated Fund of India.

The Wild Life (Protection) Amendment Act, 1986

AN ACT

furth^r to amend the Wild Life (Protection) Act, 1972.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Wild Life (Protection) Amendment Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 44.*—In the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), in sub-section (1) of section 44,—

(a) in the opening paragraph,—

(i) for the words, brackets and figure "Except under, and in accordance with, a licence granted under sub-section (4), no person shall", the words, figures, letter and brackets "Subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a licence granted under sub-section (4)" shall be substituted;

(ii) after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) a manufacturer of, or dealer in, any article made of ivory imported into India;"

(b) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that nothing in this sub-section shall apply to manufacturers of, and dealers in, articles made of feathers of peacock."

3. *Insertion of new Chapter VA.*—After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

CHAPTER VA

Prohibition of Trade or Commerce in Trophies, Animal Articles, etc., derived from certain animals

49A. *Definitions.*—In this Chapter,—

(a) "scheduled animal" means an animal specified for the time being in Schedule I or Part II of Schedule II;

(b) "scheduled animal article" means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal has been used;

(c) "specified date" means—

(i) in relation to a scheduled animal on the commencement of the Wild Life (Protection) Amendment Act, 1986, the date of expiry of two months from such commencement; and

(ii) in relation to any animal added or transferred to Schedule I or Part II of Schedule II at any time after such commencement, the date of expiry of two months from such addition or transfer.

49B. *Prohibition of dealings in trophies, animal articles, etc., derived from scheduled animals.*—

(1) Subject to the other provisions of this section, on and after the specified date, no person shall,—

(a) commence or carry on the business as—

(i) a manufacturer of, or dealer in, scheduled animal articles; or

(ii) a taxidermist with respect to any scheduled animals or any parts of such animals; or

(iii) a dealer in trophy or uncured trophy derived from any scheduled animal; or

(iv) a dealer in any captive animals being scheduled animals; or

(v) a dealer in meat derived from any scheduled animal; or

(b) cook or serve meat derived from any scheduled animal in any eating-house.

Explanation.—For the purposes of this sub-section, "eating-house" has the same meaning as in the *Explanation* below sub-section (1) of section 44.

(2) Subject to the other provisions of this section, no licence granted or renewed under section 44 before the specified date shall entitle the holder thereof or any other person to commence or carry on the business referred to in clause (a) of sub-section (1) of this section or the occupation referred to in clause (b) of that sub-section after such date.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by general or special order published in the Official Gazette, exempt, for purposes of export, any corporation owned or controlled by the Central Government (including a Government company within the meaning of section 617 of the Companies Act, 1956), or any society registered under the Societies Registration Act, 1860 or any other law for the time being in force, wholly or substantially financed by the Central Government, from the provisions of sub-sections (1) and (2).

1 of 1956.

21 of 1860.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), but subject to any rules which may be made in this behalf, a person holding a licence under section 44 to carry on the business as a taxidermist may put under a process of taxidermy any scheduled animal or any part thereof, —

(a) for or on behalf of the Government or any corporation or society exempted under sub-section (3), or

(b) with the previous authorisation in writing of the Chief Wild Life Warden for and on behalf of any person for educational or scientific purposes.

49C. Declaration by dealers. — (1) Every person carrying on the business or occupation referred to in sub-section (1) of section 49F shall, within thirty days from the specified date, declare to the Chief Wild Life Warden or the authorised officer, —

(a) his stocks, if any, as at the end of the specified date of —

(i) scheduled animal articles;

(ii) scheduled animals and parts thereof;

(iii) trophies and uncured trophies derived from scheduled animals;

(iv) captive animals, being scheduled animals;

(b) the place or places at which the stocks mentioned in the declaration are kept; and

(c) the description of such items, if any, of the stocks mentioned in the declaration which he desires to retain with himself for his *bona fide* personal use.

(2) On receipt of a declaration under sub-section (1), the Chief Wild Life Warden or the authorised officer may take all or any of the measures specified in section 41 and for this purpose, the provisions of section 41 shall, so far as may be, apply.

(3) Where, in a declaration made under sub-section (1), the person making the declaration expresses his desire to retain with himself any of the items of the stocks specified in the declaration for his *bona fide* personal use, the Chief Wild Life Warden, with the prior approval of the Director, may, if he is satisfied that the person is in lawful possession of such items, issue certificates of ownership in favour of such person with respect to all, or as the case may be, such of the items as in the opinion of the Chief Wild Life Warden, are required for the *bona fide* personal use of such person and affix upon such items identification marks in such manner as may be prescribed:

Provided that on such item shall be kept in any commercial premises.

(4) No person shall obliterate or counterfeit any identification mark referred to in sub-section (3).

(5) An appeal shall lie against any refusal to grant certificate of ownership under sub-section (3) and the provisions of sub-sections (2), (3) and (4) of section 46 shall, so far as may be, apply in relation to appeals under this sub-section.

(6) Where a person who has been issued a certificate of ownership under sub-section (3) in respect of any item, —

(a) transfers such item to any person, whether by way of gift, sale or otherwise, or

(b) transfers or transports from the State in which he resides to another State any such item, he shall, within thirty days of such transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(7) No person, other than a person who has been issued a certificate of ownership under sub-section (3) shall, on and after the specified date, keep under his control, sell or offer for sale or transfer to any person any scheduled animal or a scheduled animal article.

4. Amendment of section 51. — In section 51 of the principal Act, —

(a) in sub-section (1), for the words "contravenes any provision of this Act", the words, brackets, figure and letter "contravenes any provision of this Act (except Chapter VA)" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

"(1A) Any person who contravenes any provisions of Chapter VA, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and also with fine which shall not be less than five thousand rupees."

5. Amendment of section 63. — In sub-section (1) of section 63 of the principal Act, after clause (c), the following clause shall be inserted, namely: —

"(d) any other matter which is required to be, or may be, prescribed."

THE ENVIRONMENT (PROTECTION) ACT, 1986

ARRANGEMENT OF SECTIONS

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Sub: Environment (Protection) Act, 1986

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THE ENVIRONMENT (PROTECTION) ACT, 1986

AN

ACT

to provide for the protection and improvement of environment and for matters connected therewith

Whereas decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

And whereas it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Environment (Protection) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “environment” includes water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;

(b) “environmental pollutant” means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(c) “environmental pollution” means the presence in the environment of any environmental pollutant;

(d) “handling”, in relation to any substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such substance;

(e) “hazardous substance” means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants, micro-organism, property or the environment;

(f) “occupier”, in relation to any factory or premises, means a person who has control over the affairs of the factory or the premises and includes, in relation to any substance, the person in possession of the substance;

(g) “prescribed” means prescribed by rules made under this Act.

CHAPTER II

General powers of the Central Government

3. *Power of Central Government to take measures to protect and improve environment.*—(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:—

(i) co-ordination of actions by the State Governments, officers and other authorities—

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever;

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

4. *Appointment of officers and their powers and functions.* — (1) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 3 or of any other authority or officer.

5. *Power to give directions.* — Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation. — For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct —

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

6. *Rules to regulate environmental pollution.* — (1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in section 3.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the standards of quality of air, water or soil for various areas and purposes;

(b) the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas;

(c) the procedures and safeguards for the handling of hazardous substances;

(d) the prohibition and restrictions on the handling or hazardous substances in different areas;

(e) the prohibition and restrictions on the location of industries and the carrying on of processes and operations in different areas;

(f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.

CHAPTER III

Prevention, control and abatement of environmental pollution

7. *Persons carrying on industry, operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards.* — No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. *Persons handling hazardous substances to comply with procedural safeguards.* — No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.

9. *Furnishing of information to authorities and agencies in certain cases.* — (1) Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith —

(a) intimate the fact of such occurrence or apprehension of such occurrence; and

(b) be bound, if called upon, to render all assistance,

to such authorities or agencies as may be prescribed.

(2) On receipt of information with respect to the fact or apprehension of any occurrence of the nature referred to in sub-section (1), whether through intimation under that sub-section or otherwise, the authorities or agencies referred to in sub-section (1) shall, as early as practicable, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution.

(3) The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

10. *Powers of entry and inspection.* — (1) Subject to the provisions of this section, any person empowered by the Central Government in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place —

(a) for the purpose of performing any of the functions of the Central Government entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

(2) Every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person wilfully delays or obstructs any person empowered by the Central Government under sub-section (1) in the performance of his functions, he shall be guilty of an offence under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973; or, in relation to the State of Jammu and Kashmir, or any area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall,

2 of 1974.

so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provision of the said law.

11. *Power to take sample and procedure to be followed in connection therewith.* — (1) The Central Government or any officer empowered by it in this behalf, shall have power to take, for the purpose of analysis, samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed.

(2) The result of any analysis of a sample taken under sub-section (1) shall not be admissible in any legal proceeding unless the provisions of sub-section (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), the person taking the sample under sub-section (1) shall —

(a) serve on the occupier or his agent or person in charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent or person, collect a sample for analysis;

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(d) send without delay, the container or the containers to the laboratory established or recognised by the Central Government under section 12.

(4) When a sample is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent or person, a notice under clause (a) of sub-section (3), then, —

(a) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under clause (c) of sub-section (3), the marked and sealed container or containers shall be signed by the person taking the samples,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised under section 12 and such person shall inform the Government Analyst appointed or recognised under section 13 in writing, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

12. *Environmental laboratories.* — (1) The Central Government may, by notification in the Official Gazette, —

(a) establish one or more environmental laboratories;

(b) recognise one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act.

(2) The Central Government may, by notification in the Official Gazette, make rules specifying—

(a) the functions of the environmental laboratory;

(b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

13. *Government Analysts.*—The Central Government may, by notification in the Official Gazette, appoint or recognise such persons as it thinks fit and having the prescribed qualifications to be Government Analysts for the purpose of analysis of samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognised under sub-section (1) of section 12.

14. *Reports of Government Analysts.*—Any document purporting to be a report signed by a Government Analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

15. *Penalty for contravention of the provisions of the Act and the rules, orders and directions.*—

(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

16. *Offences by companies.*—(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

17. *Offences by Government Departments.*—

(1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER IV

Miscellaneous

18. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

19. *Cognizance of offences.*—No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

20. *Information, reports or returns.*—The Central Government may, in relation to its functions

under this Act, from time to time, require any person, officer, State Government or other authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and such person, officer, State Government or other authority shall be bound to do so.

21. *Members, officers and employees of the authority constituted under section 3 to be public servants.*—All the members of the authority constituted, if any, under section 3 and all officers and other employees of such authority when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

22. *Bar of jurisdiction.*—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken or order or direction issued by the Central Government or any other authority or officer in pursuance of any power conferred by or in relation to its or his functions under this Act.

23. *Power to delegate.*—Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act [except the power to constitute an authority under sub-section (3) of section 3 and to make rules under section 25] as it may deem necessary or expedient, to any officer, State Government or other authority.

24. *Effect of others laws.*—(1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

25. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the standards in excess of which environmental pollutants shall not be discharged or emitted under section 7;

(b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be handled or cause to be handled under section 8;

(c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section (1) of section 9;

(d) the manner in which samples of air, water, soil or other substance for the purpose of analysis shall be taken under sub-section (1) of section 11;

(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub-section (3) of section 11;

(f) the functions of the environmental laboratories, the procedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test; the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to carry out their functions under sub-section (2) of section 12;

(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13;

(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 19;

(i) the authority or officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section 20;

(j) any other matter which is required to be, or may be, prescribed.

26. *Rules made under this Act to be laid before Parliament.*—Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.